

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**


CHARLES LESLIE HERRING,)	
)	Civil Action No. 09 - 1587
Petitioner,)	
)	District Judge Donetta W. Ambrose
v.)	Magistrate Judge Lisa Pupo Lenihan
)	
JEFFREY A. BEARD, PH.D., and THE)	
ATTORNEY GENERAL OF THE STATE OF)	
PENNSYLVANIA,)	
)	
Respondents.)	

ORDER

On December 3, 2009, the above captioned case was initiated by the filing of a Motion to Proceed In Forma Pauperis accompanied by a Petition for Writ of Habeas Corpus and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

The Magistrate Judge's Report and Recommendation filed on April 30, 2010 (doc. no. 13) recommended that the Petition for Writ of Habeas Corpus be dismissed as untimely and that a certificate of appealability be denied. Petitioner was served with the Report and Recommendation and advised that he was allowed until May 17, 2010 to file written objections to the Report and Recommendation. No objections have been filed.

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, the following order is entered.

AND NOW, this 1st  day of ~~May~~ May, 2010;

IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus is **DISMISSED AS UNTIMELY**.

IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**.

IT IS FURTHER ORDERED that the Report and Recommendation (doc. no. 13) of Magistrate Judge Lenihan dated April 30, 2010, is **ADOPTED** as the Opinion of the Court.

IT IS FURTHER ORDERED that the Clerk of Court mark this case **CLOSED**.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

A handwritten signature in black ink, appearing to read "Donetta W. Ambrose".

Donetta W. Ambrose
United States District Judge

cc: Charles Leslie Herring
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